

REMARKS

The Office Action dated June 14, 2004, has been received and carefully reviewed. Claims 3-8 and 11-112 are pending in this application and submitted for reconsideration. As set forth below, it is most respectfully submitted that the Patent Office has incorrectly withdrawn the prior indications of allowability. Early reconsideration and allowance are most respectfully requested.

Objections to the Claims:

The Office Action objected to claims 11, 21, 22 and 62 for asserted informalities. In particular, the Examiner requested that the claims be amended to change the reference to the "third" distributing station in the claims to the –second–, and similarly, that the "fourth" be changed to the –third–. However, it is most respectfully submitted that the Applicant submits that references to first, second, third and fourth network stations are correct and that no amendment is necessary.

The claims recite, inter alia, a step of "receiving the packet at a third distributing station." This third station may or may not be the same as the "second distributing

Appl. No.: 09/523,375

Response to Office Action of June 14, 2004

station." The packet is forwarded to a "fourth distributing station that is different from the first distributing station." Since there is no requirement that the third distributing station be the same as the second distributing station, the claim language need not be changed. Accordingly, the Applicant requests that the objection to the claims be withdrawn.

Allowance of Claims:

In the Office Action, claims 3-8 were allowed and claims 3-8 and 13-18, 22, 24-29, 34-41, 44-49, 54-57, 62, 67-74, 74-86, 91-98 and 108-110 were found to recite allowable subject matter but were objected to in the Office Action as depending upon rejected base claims. The Patent Office's confirmation of such allowability is most respectfully appreciated.

Rejections Under 35 U.S.C. 102:

In the Office Action, claims 11, 19-21, 30-32, 42, 50-52, 60-61, 63-65, 75-77, 87-89, 99-101, and 111-112 were rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,532,088 to Dantu et al. ("Dantu"). The Applicant respectfully traverses the rejection

and submits that claims 11, 19-21, 30-32, 42, 50-52, 60-61, 63-65, 75-77, 87-89, 99-101, and 111-112 recite subject matter not disclosed or suggested by Dantu.

Dantu is directed to an apparatus and method for transporting IP user traffic over a fiber optic ring. In Dantu, the fiber optic ring includes a plurality of rings, a first ring used for a working path and a second ring used as a protection path. See Abstract of Dantu. Dantu describes that "an ingress node 400 is responsible for determining the path route for a data packet through the fiber optic network." See Col. 9, lines 42-45 of Dantu. However, Dantu fails to teach or suggest, inter alia, a step of determining functioning routes from a first distributing station to a second distributing station within a resilient closed communication network, and a step of selecting **an optimal route among the functioning routes**, the data packet being sent **from the first distributing station to the second distributing station using the optimal route**, as recited in claims 11, 21, and 32, upon which claims 19-21, 30-31, 42, 50-52, 60-61, and 63-64 depend. Similarly, Dantu fails to teach or suggest, inter alia, means for determining functioning routes to the destination distributing station within the resilient closed communication network and means for selecting an optimal route among the functioning routes as recited in claim 65, 77, 89 and 101, upon which claims 75-77, 87-89, 99-101, and 111-112 depend.

Dantu discloses that its system may work with Multiprotocol Label Switching (MPLS) networks. Accordingly, an MPLS label 1116 can be appended to the data packet 1100. See Fig. 11 of Dantu. An MPLS label contains special information such as CoS and QoS information and may contain a "channel ID." See col. 11, line 25-39. However, Dantu fails to teach or suggest, inter alia, a step of identifying a second distribution station connected to the resilient closed network communication network from which the data packet is to be forwarded to a second external network and **appending an identification number of the second distributing station to the data packet** before it leaves the first distributing station, receiving the data packet at a third distributing station and forwarding the data packet to the second external network connected to the third distributing station after removing the identification number from the data packet **if the identification number of the third distributing station is the same as the identification number appended to the data packet**, as recited in claims 11 and 21, upon which claims 19-21, 30-31, depend.

Similarly, Dantu fails to teach or suggest a step of **identifying a network address** of a second router in the second distributing station from which the data packet is to be forwarded to a second external network, **determining an identification**

number of a second packet distributor in the second distributing station, and appending the **identification number** of the second packet distributor to the data packet, as recited in claim 32, upon which claims 42, 50-52, 60-61, 63-64 depend.

In addition, Dantu fails to teach or suggest means for appending **the identification number for the destination distributing station** to the data packet received from the external network and means for forwarding to the external network after removing the identification number from the data packet **if the identification number of the distributing station is the same as the identification number appended to the data packet**, or otherwise forwarding the data packet to a next distributing station based on the optimal route, as recited in claim 65 and 77, upon which claims 75-76, 87-88 depend.

Similarly, Dantu fails to teach or suggest means for identifying a network address of a destination router in the destination distributing station for the data packet received from the router in the same distributing station; means for determining **an identification number** of a destination packet distributor in the destination distributing station; means for appending the **identification number** of the destination packet distributor to the data packet received from the router in the same distributing station; and means for

Appl. No.: 09/523,375

Response to Office Action of June 14, 2004

forwarding the data packet to the router in the same distributing station after removing the identification number from the data packet **if the identification number of the distributing station is the same as the identification number appended to the data packet**, as recited in claims 89 and 101, upon which claims 99-100, 102 and 111-112 depend.

Thus, for at least the reasons described above, the Applicant submits that Dantu fails to teach or suggest the combinations of features recited in claims 11, 19-21, 30-32, 42, 50-52, 60-61, 63-65, 75-77, 87-89, 99-101, and 111-112. Accordingly, the Applicant requests that the rejection be withdrawn and that claims 11, 19-21, 30-32, 42, 50-52, 60-61, 63-65, 75-77, 87-89, 99-101, and 111-112 be duly allowed.

Rejections Under 35 U.S.C. 103:

In the Office Action, claims 12, 23, 33, 43, 53, 66, 78, 90, and 102 were rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Dantu. In this regard, the Patent Office admitted in the Office Action that Dantu fails to mention any optimizing factors, but asserted that it would have been obvious to consider traffic value, distance and preference value when determining the path route in order to avoid overloading the

Appl. No.: 09/523,375

Response to Office Action of June 14, 2004

communication link. The Applicant respectfully traverses these rejections. Among other things, the Applicant submits that claims 12, 23, 33, 43, 53, 66, 78, 90, and 102 recite subject matter not obvious in view of Dantu and that these rejections are improper.

To establish a prima facie case for obviousness, all the claim limitations must be taught or suggested by the prior art. See MPEP § 2143.03. Here, the Office Action fails to point to any prior art suggesting the subject matter which is admittedly not disclosed by Dantu. Furthermore, the Office Action fails to state any facts supporting the assertion of obviousness, to state that the missing elements were "well-known" in the art, or to provide Official Notice of the subject matter pursuant to MPEP § 2144.03. It is most respectfully submitted that Dantu fails to teach or suggest, inter alia, how to optimize the routing of a data packet. Applicants submit that it would not have been obvious to one of ordinary skill to modify Dantu as suggested by the Office Action. Thus, it is most respectfully submitted that the rejection fails to state a prima facie case for obviousness, is improper and must be withdrawn.

In addition, claims 12, 23, 33, 43, 53, 66, 78, 90, and 102 depend upon claim 11, 21, 32, 42, 52, 65, 77, 89, and 101, respectively, and are, therefore, patentable over

Appl. No.: 09/523,375

Response to Office Action of June 14, 2004

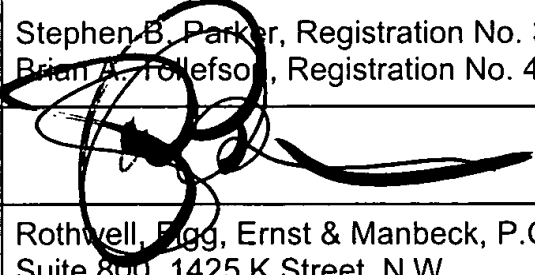
Dantu for all the same reasons already described above. Moreover, the dependent claims recite additional combinations of features that are further not taught or suggested by Dantu. There is no additional prior art known or of record that makes up for the above-described deficiencies of Dantu. Thus, the Applicant also respectfully submits that Dantu similarly fails to show or suggest the combination of features recited in claim 2. Accordingly, the Applicant requests that the rejection be withdrawn and claim 2 be allowed.

Appl. No.: 09/523,375
Response to Office Action of June 14, 2004

Concluding Remarks:

In view of the foregoing, the Applicant submits that claims 3-8 and 11-112 recite subject matter that is patentable over the cited prior. Accordingly, the Applicant requests that claims 3-8 and 11-112 be allowed and this application passed to issue.

In the event that any fees are now due, please charge such to our deposit account number 02-2135.

RESPECTFULLY SUBMITTED,					
NAME AND REG. NUMBER	Stephen B. Parker, Registration No. 36,631 Brian A. Follefsen, Registration No. 46,338				
SIGNATURE				DATE	8/24/04
ADDRESS	Rothwell, Figg, Ernst & Manbeck, P.C. Suite 800, 1425 K Street, N.W.				
CITY	Washington	STATE	D.C.	ZIP CODE	20005
COUNTRY	U.S.A.	TEL.:	(202) 783-6040	FAX	(202) 783-6031